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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,809	11/13/2003	Alexander G. MacInnis	51374/SAH/B600	7879
23363	7590	06/06/2005	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			LUU, MATTHEW	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	
			2676	

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,809

Applicant(s)

MACINNIS ET AL.

Examiner

LUU MATTHEW

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/9/04; 12/16/04; 2/4/05; 6/15/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 35-52 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,570,579 (hereinafter '579). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 35-52 of the present invention are broader than claims 1-4 of U.S. Patent No. 6,570,579.

Patent No. 6,570,579

Claim 1: An integrated circuit comprising:
...a display engine for blending a plurality
of graphics layers using alpha values; and
wherein the graphics data is spatially
processed independently of the video
data prior to blending,

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Claim 35: A method of blending a
plurality of image layers comprising:
organizing the plurality of image layers
upper image layers and at least one
lower image layer;

wherein the display engine blends a plurality of graphics images...into a blended graphics image and combines a plurality of alpha values into a plurality of composite alpha values, and the video compositor blends the blended graphics image with video included in the video data, and wherein the plurality of graphics images are blended one at a time using the plurality of alpha values to form the blended graphics image.

combining a plurality of alpha values... into a plurality of composite alpha values; and compositing the blended upper image layer and the at least one lower image layer using the plurality of composite alpha values.

Claim 4: A method of blending graphics

data and video data...comprising the

Steps of:

combining a plurality of alpha values into a plurality of composite alpha values,

wherein the step of blending...the plurality of graphics images into a blended graphics image, and the

step of blending the graphics data
and the video using the plurality
of composite alpha values, and
wherein the step of combining a
plurality values into a plurality of
composite alpha values
comprising the steps of multiplying
(1-alpha value) of an alpha value
associated with each pixel of a first
graphics image...each pixel of
a second graphics image,... and
multiplying the product of each
multiplication by an alpha value
associated with each pixel of a
third graphics image.

The only difference between the disclosure of the U.S. Patent No. '597 and the claimed invention is that the claim requires "organizing the plurality of image layers upper image layers and at least one lower image layer".

However, since claim 1 of the Patent No. '597 recites "wherein the graphics data is spatially processed independently of the video data prior to blending" and "wherein the plurality of graphics images are blended one at a time using the plurality of alpha

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values to form the blended graphics image", it would have been obvious to a person of ordinary skill in the art to recognize that the plurality of graphics images can be considered as the upper image layers, and whereas the video image can be a lower image layer. Furthermore, it is well known in the art that a Z-buffer can determine the order of the image layers from top most to bottom most layers.

The claim 4 of Patent No. '597 also recites "wherein the step of combining a plurality values into a plurality of composite alpha values comprising the steps of multiplying (1-alpha value) of an alpha value associated with each pixel of a first graphics image...each pixel of a second graphics image,... and multiplying the product of each multiplication by an alpha value associated with each pixel of a third graphics image."

Furthermore, omission of element and its function in combination is obvious expedient if remaining elements perform same function as before. In re KARLSON (CCPA) 136 USPQ 184 (1963).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Horiuchi (6,470,100) discloses (Figs. 2-5) an image composing part (28) for composing a plurality of image layers (26).

-O'Connor et al (5,638,499) disclose (Fig. 9) object layers (layer i-1) to be added with the single layer object (layer i).

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-Blank (5,687,306) discloses (Fig. 4h) a composition of the Z-depth of image layers (Z0-Z4).

-Otake et al (5,708,457) disclose (Fig. 1) a composite circuit (76) for compositing a moving picture (34) and a background picture (32). This composite circuit also includes a transparency detecting circuit (78). Otake et al further disclose (Fig. 3) a priority control circuit (46 and 54).

-Tsujiimoto et al (5,625,764) disclose (Fig. 14) the weighted average circuits (111-113) for blending the input image A and input image B.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUU MATTHEW whose telephone number is (571) 272-7663. The examiner can normally be reached on Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BELLA MATTHEW can be reached on (571) 272-7663. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Luu

A handwritten signature in black ink, appearing to read "Matthew Luu", with a large, stylized initial "M" and a trailing flourish.

MATTHEW LUU
PRIMARY EXAMINER